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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,961

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EXAMINER

BENVENUTI II, MATTHEW GEORGE

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

02/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,961	Applicant(s) SAMPAIO CAMACHO, JOSE MANUEL	
	Examiner Matt Benvenuti	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/4/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).
- (e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.
- (f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:
 - (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."
 - (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are

solved by the applicant's invention. This item may also be titled "Background Art."

- (g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.
- (j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if

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an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

- (l) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

1. The present application lacks the necessary section headings.
2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means," "comprises," and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The present abstract includes the word "comprising/comprises" in lines 1 and 4.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 4 and 5 recites the limitation "the outer face" and "the inner face" in Claims 4 and 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 3-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Center et al (US 5,078,509) in view of Marchesani (US 3,806,024).

9. In re Claims 1, 3, and 6, Center et al teaches a flexible packaging (10 and Column 3, Lines 14-15) comprising a body initially closed at one end (20, Figure 1), the body comprising at least one main face formed from two sections (Figures 2a and 2b) whose longitudinal edges are bonded to each other along a longitudinal weld lying along the height of the body (Column 3, Lines 35-49 and Column 4, Lines 15-21) substantially in the central part of the main face (Figures 2a and 2b), at least one of the sections extending outside the body beyond the longitudinal weld in order to form a flap (60), characterized in that it comprises a line of weakness (150) which favors tearing and which is formed adjacent the longitudinal weld (Figure 3), the said line of weakness

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defining, on the flap (60), at least one strip (63) which can be detached at least locally from the body of the package (Column 5, Lines 36-41).

10. Center et al does not disclose an adhesive borne by the strip, which adhesive is suitable for providing subsequent sticking of the strip against the outer surface of the packaging. Center et al does disclose a strip which is removed to expose adhesive applied to the packaging, and in the region of the adhesive only one of the extensions of the two sections comprising the main face. Marchesani teaches a strip with an adhesive closure (24) which can be peeled the entire length of the bag (12) and has the adhesive (32 and Column 1, Lines 47-48) applied directly to the closure strip. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the packaging as taught by Center et al, so that the adhesive strip could be peeled back and placed over a rolled bag top as taught by Marchesani. Such a modification would allow the flap to extend up and over the rolled top of Center et al, providing a better closure.

11. In re Claim 4, the combination further teaches the longitudinal weld is of the outer face against inner face type (Center et al, Figure 2a).

12. In re Claim 5, the combination further teaches the longitudinal weld is of the inner face against inner face type (Center et al, Figure 2b).

13. In re Claim 7, the combination further teaches the adhesion force of the adhesive to the surface of the strip being greater than the adhesion force of the adhesive to the outer surface of the section. Center et al discloses that the adhesive can be any suitable adhesive known in the art (Column 5, Lines 36-39) and Marchesani teaches the

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use of a pressure sensitive adhesive (Column 1, Lines 47-48). It is the Examiner's position that the adhesive force between adhesive and strip must be greater than the force between the adhesive properties of the adhesive strip taught by Marchesani are inherently as claimed, because if they were not the adhesive would not remain on the strip as taught by Marchesani.

14. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Center et al/Marchesani as applied to claim 1 above, and further in view of Donovan et al (US 5,888,648).

15. In re Claim 2, Center et al/Marchesani teaches the claimed invention except for the flap comprising super imposed extensions of the two sections. Donovan et al teaches that it is known in the art to create a fin seal in which the extensions from both sides (31, 32) are of an equal length. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the extensions of the modified Center et al packaging the same length and then seal them together as taught by Donovan et al, as such flap construction was already known in the art. Such a modification would have simplified production of the bag because the ends of the two sections could be lined up and sealed, without having to determine an appropriate length to offset one of the ends.

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16. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Center et al/Marchesani as applied to claim 1 above, and further in view of Weiss et al (US 5,459).

17. In re Claims 8 and 9, Center et al/Marchesani teach the claimed invention except for the adhesive selected from the group consisting of hotmelt, a cold-setting adhesive, a double-sided adhesive tape and an adhesive bead, the adhesive including a detachable protective film. Weiss et al teaches a double-sided adhesive tape (105) including a removable release strip (108). Center et al discloses that the adhesive can be any suitable adhesive known in the art (Column 5, Lines 36-39). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a double-sided adhesive tape including a removable release strip for the bag taught by the modified Center et al packaging, which Weiss et al teaches was known in the art. Such a modification would have ensured that the adhesive was not exposed until needed and the liner was removed. Additionally, using a stock double sided tape, would allow the adhesive to be placed on the bag after the bag was manufactured.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Benvenuti whose telephone number is (571)270-5704. The examiner can normally be reached on Monday - Friday: 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matt Benvenuti/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782